

# ***HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE***

## ***ADMINISTRATIVE RULES REVIEW***

### ***Table of Contents***

#### ***2005 Legislative Session***

#### **IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR**

##### ***09.01.30 - Rules of the Benefits Bureau***

Docket No. <b><i>09-0130-0401</i></b> .....	2
Docket No. <b><i>09-0130-0402</i></b> .....	7

##### ***09.01.35 - Rules of the Employer Accounts Bureau***

Docket No. <b><i>09-0135-0401</i></b> .....	12
Docket No. <b><i>09-0135-0402</i></b> .....	15

##### ***09.02.04 - Idaho Gem Community Implementation Grant Program***

Docket No. <b><i>09-0204-0401</i></b> .....	18
---	----

#### **IDAPA 17 - INDUSTRIAL COMMISSION**

##### ***17.06.02 - Boiler and Pressure Vessel Safety Rules - Administration***

Docket No. <b><i>17-0602-0401</i></b> .....	28
---	----

##### ***17.07.01 - Safety Rules for Elevators, Escalators and Moving Walks***

Docket No. <b><i>17-0701-0401</i></b> (Chapter Repeal) .....	31
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# House Commerce and Human Resources Committee

## IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

### 09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 214 through 216.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Bureau Chief, (208)332-3570 ext. 3233.

DATED this 17th day of November, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau****Docket No. 09-0130-0401**  
**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The Department of Commerce and Labor is adding definitions relating to electronic signatures as part of the enhanced claims system utilizing electronic communications for filing and reporting on claims. Definitions for “Personal Identification Number (PIN),” “Signature” and “Signed” are being added to the rule.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The changes to the rule confer a benefit to unemployment insurance benefit claimants by facilitating electronic transactions with the Department.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules are being added to ensure compliance with statutory requirements for electronic signatures.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 Ext. 3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Roger Holmes  
UI Benefits Bureau Chief  
Benefit Programs Bureau  
Department of Commerce and Labor  
317 W. Main Street, Boise, Idaho 83735  
Phone: 332-3570 Ext. 3233  
Fax: 334-6301

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### **010. DEFINITIONS.**

Unless the context clearly requires otherwise, these terms shall have the following meanings

# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau****Docket No. 09-0130-0401**  
**PENDING RULE**

---

when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Commerce and Labor. (3-19-99)

**01. Additional Claim.** An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

**02. Administrative Office.** The main office in Boise, Idaho, wherein the administrative functions of the Department of Commerce and Labor are performed. (3-19-99)

**03. Appealed Claim.** An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

**04. Average Annual Wage.** For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Commerce and Labor by covered employers. (3-19-99)

**05. Average Weekly Wage.** For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, as computed from data reported to the Department of Commerce and Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty-two (52). (3-19-99)

**06. Benefit Balance.** The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

**07. Chargeability Determination.** A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

**08. Claim.** An application for unemployment insurance or "benefits". (3-19-99)

**09. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)

**10. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)

**11. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)

**12. Continued Claim.** An application for waiting-week credit or for benefits for

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau****Docket No. 09-0130-0401**  
**PENDING RULE**

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specific compensable weeks. (3-19-99)

**13. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, “employment” means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (3-19-99)

**14. Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)

**15. Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)

**16. Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

**17. Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)

**18. Itinerant Point.** A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)

**19. Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)

**20. Local Office.** A community office of the Department of Commerce and Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)

**21. Mail Claim.** A claim filed by mail rather than in person at a local office. (3-19-99)

**22. Monetary Determination.** A determination of eligibility which lists a claimant’s base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

**23. New Claim.** The first initial claim made in a benefit year. (3-19-99)

**24. Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

**25. Personal Identification Number (PIN).** A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (7-1-04)T

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau**

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**Docket No. 09-0130-0401**  
**PENDING RULE**

**256. Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

**27. Signature, Signed.** The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (7-1-04)T

**268. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)

**279. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

**2830. Unemployment.** An individual shall be deemed “unemployed” in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)

**2931. Weekly Benefit Amount.** The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

# House Commerce and Human Resources Committee

## IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

### 09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0402

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 217 through 219.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Bureau Chief, (208)332-3570 ext. 3233.

DATED this 17th day of November, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** These temporary rules are effective July 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau****Docket No. 09-0130-0402**  
**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**IDAPA 09.01.30.525** would be amended to require all holiday pay to be reported in the week the holiday occurs, which would simplify reporting requirements for both claimants and employers. The amendment would delete the current language requiring that holiday pay that is contingent upon an employee's return to work after the holiday is reportable when paid. All claimants would now report holiday pay as income for the claim week in which the holiday occurred. Confusion over when to report holiday pay has been a significant cause of overpayments for claimants. Employers who make holiday pay contingent on whether employees return to work after the holiday will no longer be liable for unemployment benefits paid for days for which they also paid holiday pay. Also, the U.S. Department of Labor is proposing a change in its benefit quality assessment process that allows states with this modified rule to forego verifying with employers holiday pay amounts received by claimants and the employers' holiday payment policies. This change would reduce staff time spent on the verification process by the Department and employers.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Simplifying the rule would benefit claimants, employers, and Department staff by clarifying when holiday pay should be reported. Confusion over when to report holiday pay has been a significant cause of overpayments for claimants, which will now be avoided. Employers who make holiday pay contingent on whether employees return to work after the holiday will no longer be liable for unemployment benefits paid for days for which they also paid holiday pay.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being amended to clarify an existing rule that has caused confusion.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 Ext. 3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Roger Holmes



# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau**

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**Docket No. 09-0130-0402**  
**PENDING RULE**

UI Benefits Bureau Chief  
Benefit Programs Bureau  
Department of Commerce and Labor  
317 W. Main Street  
Boise, Idaho 83735  
Phone: 332-3570 Ext. 3233  
Fax: 334-6301

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### **525. REPORTABLE INCOME.**

Ref. Sec.72-1312, 72-1328, Idaho Code.

(3-19-99)

**01. Back Pay or Disputed Wages.** Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. If the claimant received waiting week credit for a week in which the award or judgment is reported or assigned, the waiting week will be denied if the amount of the award or judgment for the week renders the claimant ineligible for such credit. If the claimant received benefits for the weeks in which the award or judgment is reported or assigned, such benefits are overpaid to the extent that the weekly amount of the award or judgment affects the claimant's eligibility.

(3-19-99)

**02. Disability/Injury Compensation.** Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes.

(3-19-99)

**03. Disability Retirement Payments.** Retirement payments as a result of disability shall be treated the same as other types of retirement payments. Ref. Sec. 72-1312(4), Idaho Code.

(3-19-99)

**04. Gratuities or Tips.** Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned.

(3-19-99)

**05. Holiday Pay.** Holiday pay must be reported as though earned in the week in which the holiday occurs. ~~Holiday pay that is contingent upon an employee's return to work after the holiday is considered a bonus and is reportable when paid.~~

~~(3-19-99)(7-1-04)T~~

**06. Non-Periodic Remuneration.** All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid.

(3-19-99)

**07. Penalty or Damage Awards.** Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages.

(3-19-99)

**08. Pension, Retirement, or Annuity Payments.** The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau****Docket No. 09-0130-0402**  
**PENDING RULE**

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similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension shall be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, the pension offset shall be reduced one hundred percent (100%), and no deduction for the pension shall be made from the claimant's weekly benefit amount. Ref. Sec. 72-1312(4), Idaho Code. (3-19-99)

**a.** Pension Contributions. The burden shall be on the claimant to establish by substantial, competent evidence that he has made contributions toward the pension, retirement pay, annuity or other similar payment plan. (3-19-99)

**b.** Pension Payment Changes. Any change in the amount of the pension, retirement, or annuity payments which affects the deduction from the claimant's weekly benefit amount shall be applied in the first full week after the effective date of the change. (3-19-99)

**09. Relief Work or Public Assistance.** (3-19-99)

**a.** Remuneration received for relief work or public service work will be considered wages on the same basis as any other employment. (3-19-99)

**b.** Eligibility When Public Assistance Received. A person receiving public assistance shall be eligible for benefits if no work is involved and the claimant is otherwise eligible. (3-19-99)

**10. Self-Employment Earnings.** When reporting earnings, a claimant must report gross earnings from self-employment unless the claimant can prove that certain expenditures, which are not commonly associated with working for wages, were necessary in order to accomplish the work. Such expenditures may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. Expenditures which are not deductible include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. (3-19-99)

**11. Severance Pay.** An equal portion of a periodic severance payment must be reported in each week of the period covered by the payment. However, severance pay received in a lump sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

**12. Vacation Pay.** Vacation pay allocable to a certain period of time in accordance with an employment agreement must be reported in the week to which it is allocable. However, vacation pay received in a lump-sum payment at the time of severance of the employment relationship must be reported when paid. (3-19-99)

**13. Verification of Earnings on Claim Reports.** The Department may verify the earnings and/or reasons for separation reported by claimants on claim reports filed for benefit payments. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

**14. Wages for Contract Services.** A person who is bound by a contract which does not prevent him from accepting other employment but who receives pay for a period of not

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Benefits Bureau**

**Docket No. 09-0130-0402**  
**PENDING RULE**

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working, is required to report the contract payments as earnings in equal portions in each week of the period covered by the contract. This rule does not apply to employees of educational institutions. (3-19-99)

**15. Wages for Services Performed Prior to Separation.** Wages for services performed prior to a claimant's separation are reportable for the week in which earned. (3-19-99)

# House Commerce and Human Resources Committee

## IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

### 09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 220 and 221.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext 3266.

DATED this 17th day of November, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

# House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Employer Accounts Bureau**

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**Docket No. 09-0135-0401**  
**PENDING RULE**

The proposed change to IDAPA 09.01.35.040 clarifies that in order to qualify for a “good cause” waiver of the penalties imposed by the Employment Security Law, an employer must approach the Department to inquire about appropriate treatment of workers for tax purposes.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being amended to clarify the waiver eligibility criteria in an existing rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Mark Whitworth  
Bureau Chief  
Employer Accounts Bureau  
Department of Commerce and Labor  
317 W. Main Street, Boise, ID 83735  
Phone: 332-3570 ext. 3266  
Fax: 334-6301

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### **040. COMPROMISE OF PENALTY.**

Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. (3-19-99)

**01. Good Cause.** An employer has good cause for the failure to timely pay contributions when, in the opinion of the Director or his authorized representative, the employer has established that one (1) of the following criteria has been met: (3-19-99)

**a.** The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (3-19-99)

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Employer Accounts Bureau**

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**Docket No. 09-0135-0401**  
**PENDING RULE**

- i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (3-19-99)
  - ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (3-19-99)
  - iii. Destruction by fire or other casualty of the employer's place of business or business records; or (3-19-99)
  - iv. Postal service delays. (3-19-99)
- b.** The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (3-19-99)
- c.** Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, who voluntarily approaches the Department to inquire as to whether workers are engaged in covered employment, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Sec. 72-1354, Idaho Code. (~~3-19-99~~)( )

# House Commerce and Human Resources Committee

## IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

### 09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0402

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 222 and 223.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

DATED this 17th day of November, 2004.

---

#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR**  
**Rules of the Employer Accounts Bureau**

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**Docket No. 09-0135-0402**  
**PENDING RULE**

The proposed change to IDAPA 09.01.35.134 would require a professional employer organization (PEO) to elect, for each client employer, either the PEO's experience rate or the client employer's experience rate. The change eliminates the option of reporting the workers of the client employer under the PEO's experience rate without transferring the prior benefit claims experience of the client employer.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule is being changed to comport with a recent federal statutory law change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Mark Whitworth  
Bureau Chief  
Employer Accounts Bureau  
Department of Commerce and Labor  
317 W. Main Street  
Boise, ID 83735  
Phone: 332-3570 ext. 3266  
Fax: 334-6301

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **134. PROFESSIONAL EMPLOYER ORGANIZATIONS.**

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

**01. Methods of Reporting.** To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

- a.** Report the workers included in the professional employer arrangement under the



## House Commerce and Human Resources Committee

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### DEPARTMENT OF COMMERCE AND LABOR Rules of the Employer Accounts Bureau

Docket No. 09-0135-0402  
PENDING RULE

---

employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

~~b. Report the workers included in the professional employer arrangement under the account number of the professional employer without transferring the experience rate of the client to the professional employer; or (3-15-02)~~

**eb.** Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**02. Joint Transfer of Experience Rate.** In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(4), Idaho Code, from the date of the ~~agreement~~ contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Sec. 72-1351(4), Idaho Code. (3-20-04)( )

**03. Partial Transfers of Experience Rate Prohibited.** In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**04. Mandatory Transfer of Experience Rate.** If the professional employer organization elects to report the workers assigned to the client under the experience rate of the professional employer, and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory. Ref. Sec. 72-1351, and 72-1349B, Idaho Code. (3-15-02)

**05. Partial Reporting of Workers.** If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**06. Combined Wages or Services for Purposes of Coverage.** If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

# House Commerce and Human Resources Committee

## IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

### 09.02.04 - IDAHO GEM COMMUNITY IMPLEMENTATION GRANT PROGRAM

DOCKET NO. 09-0204-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 224 through 230.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jerry Miller, Rural Development Specialist, 332-3570 ext. 2143.

DATED this 17th day of November, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section 67-4702, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and

# House Commerce and Human Resources Committee

**DEPARTMENT OF COMMERCE AND LABOR**  
**Idaho Gem Community Implementation Grant Program**

**Docket No. 09-0204-0401**  
**PENDING RULE**

purpose of the proposed rulemaking:

The proposed rule changes to IDAPA 09.02.04 eliminate the requirement that rural communities be certified as “Gem Communities” to be eligible for a Gem Community Implementation Grant. The program will be renamed the “Idaho Gem Grant Program” to reflect this change. This change will make Idaho Gem Grant funds more accessible to rural communities that lack the resources to support certification as a “Gem Community.” The intent, goals and application of the program will remain the same.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because of the nature of the proposed changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jerry Miller, Rural Development Specialist, 332-3570 ext. 2143.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 25th day of August, 2004.

Jerry Miller  
Rural Development Specialist  
Department of Commerce and Labor  
700 West State Street  
P.O. Box 83720  
Boise, ID 83720-0093  
Phone: 332-3570 ext. 2143  
Fax: 334-2631

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### IDAPA 09 TITLE 02 CHAPTER 04

#### IDAHO GEM ~~COMMUNITY IMPLEMENTATION~~ GRANT PROGRAM

##### **000. LEGAL AUTHORITY.**

~~The Idaho Gem Community Action Grant Program was created as part of Governor Kempthorne's Rural Development Initiative. The First Regular Session of the 56th Idaho State~~

# House Commerce and Human Resources Committee

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## DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

~~Legislature made funds available to create the Gem Community Implementation Grant (GCI) Program within the Idaho Department of Commerce and Labor (IDC). These rules are promulgated under the legal authority of Section 67-4702, Idaho Code.~~ (3-15-02)( )

### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be ~~known~~ cited as IDAPA 09.02.04, "Idaho Gem Community Implementation Grant Program". (3-15-02)( )

**02. Scope.** ~~These rules establish the process for application for and awarding of Idaho Gem Community Implementation Grants.~~ The Idaho Gem Grant (IGG) Program was created as part of Governor Kempthorne's Rural Development Initiative. Successive sessions of the Idaho State Legislature made funds available to the Idaho Department of Commerce and Labor to fund the Governor's IGG Program. These rules implement the Department's procedures for project selection, award and disbursement of grant moneys for the Governor's IGG Program. (3-15-02)( )

### 002. WRITTEN INTERPRETATIONS.

~~The Idaho Department of Commerce and Labor may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce and Labor, 700 W State Street, Boise, Idaho 83720-0093. The Department has no written interpretations of these rules.~~ (3-15-02)( )

### 003. ADMINISTRATIVE APPEALS.

~~Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to Section 67-5270, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General".~~ The award of grants under the IGG Program is a discretionary action to be performed by the Department. There is no provision for administrative appeal under these rules. (3-15-02)( )

### 004. INCORPORATION BY REFERENCE.

~~These rules do not contain documents incorporated by reference.~~ The IGG Program Handbook is incorporated herein by reference. Copies of this document are available for public inspection and copying at the address indicated below or through the internet at: [www.idoc.state.id.us/idcomm/comdev/grantprogram.html](http://www.idoc.state.id.us/idcomm/comdev/grantprogram.html). (3-15-02)( )

### 005. OFFICE -- OFFICE HOURS ~~OFFICE HOURS~~, MAILING ADDRESS, AND STREET ADDRESS.

The headquarters ~~office~~ of the Idaho Department of Commerce and Labor is in Boise, Idaho. ~~This office is open~~ hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department's mailing address, ~~unless otherwise indicated,~~ for information regarding the IGG Program is: Idaho Department of Commerce and Labor, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. (3-15-02)( )

### 006. PUBLIC RECORDS ACT COMPLIANCE.

~~All records relating to this chapter are public records except to the extent such records are by law~~

# House Commerce and Human Resources Committee

---

## DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

~~exempt from disclosure.~~ All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). (3-15-02)( )

007. -- 011. (RESERVED).

### 012. PRIMARY OBJECTIVES.

~~01. Primary Objective.~~ The primary objectives of the ~~Gem Community Implementation Grant~~ IGG Program ~~is~~ are to fund community development projects of ~~Certified Gem rural~~ Certified Gem rural ~~C~~ommunities for the purpose of: (3-15-02)( )

~~a~~01. Improving the Local Economy. (2-7-94)

~~b~~02. Retaining or Creating Jobs. (2-7-94)

~~e~~03. Promoting the Community for Economic Development and Tourism. (2-7-94)

~~d~~04. Assisting Business Expansion and Diversification. (2-7-94)

### 013. ELIGIBLE APPLICANTS.

~~Active Certified Gem Idaho rural~~ Certified Gem Idaho rural ~~C~~ommunities under ten thousand (10,000) persons and other ~~Active Certified Gem Idaho rural~~ Certified Gem Idaho rural ~~C~~ommunities at the discretion of the ~~d~~Director of the Department of Commerce and Labor are eligible to apply for ~~GCI grants for~~ IGGs up to a maximum of fifty thousand dollars (\$50,000). ~~GCI grants shall be made~~ IGGs to ~~cities/counties of active certified Gem Communities. The grants city and county governments may be~~ Certified Gem rural Communities. ~~The grants city and county governments may be~~ administered by their designees as established by formally adopted resolutions. (3-15-02)( )

### 014. ELIGIBLE ACTIVITIES.

For a project to be eligible for ~~GCI~~ IGG funding the project must meet ~~the following conditions:~~ one (1) or more of the IGG program's primary objectives listed in Section 012 of these rules. (3-15-02)( )

~~01. Project Concept.~~ ~~The project concept must be included in the applicant's current Gem Community one year plan.~~ (2-7-94)

~~02. Purpose Of Project.~~ ~~The purpose of the project must be consistent with one (1) or more of the GCI program objectives listed in Section 012.~~ (3-15-02)

### 015. ELIGIBLE COSTS.

01. Eligible Costs. Eligible costs for the use of ~~GCI~~ IGG funds are limited to: (3-15-02)( )

a. Materials. (2-7-94)

b. Construction contracts. (2-7-94)

c. Architect and engineering services and legal and professional services required for

## House Commerce and Human Resources Committee

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**DEPARTMENT OF COMMERCE AND LABOR  
Idaho Gem Community Implementation Grant Program****Docket No. 09-0204-0401  
PENDING RULE**

---

project implementation. (3-15-02)

- d. Equipment. (2-7-94)
- e. Equipment installation. (2-7-94)
- f. Advertising. (2-7-94)
- g. Printing. (2-7-94)
- h. Construction of infrastructure for economic expansion. (3-15-02)
- i. Rehabilitation ~~and~~ development of public property to support business development. (~~3-15-02~~)( )
- j. Acquisition of real estate for business development. (3-15-02)
- k. Matching funds for other state, federal and foundation economic development grants. (~~3-15-02~~)( )

**016. INELIGIBLE ACTIVITIES/COSTS.**

~~Gem Community Implementation Grant~~ IGG funds shall not be used for: (~~3-15-02~~)( )

**01. Payroll Costs.** Payroll costs for city, county, development corporation or other community agencies. (2-7-94)

**02. Real Property Acquisition.** Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. (3-15-02)

**03. Administrative Costs.** Expenses related to administering ~~Gem Community Implementation Grants~~ IGGs will not be reimbursable to the grantee from ~~GCI~~ IGG funds. (~~3-15-02~~)( )

**04. Political Activities.** ~~GCI~~ IGG funds shall not be used for political purposes or to engage in lobbying or other partisan political activities. (~~3-15-02~~)( )

**05. Religious Activities.** ~~GCI~~ IGG funds shall not be used for the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. (~~3-15-02~~)( )

**017. SELECTION.**

The ~~GCI grant~~ IGG process is competitive on a quarterly cycle and is dependant upon grant fund availability. All Active Certified Gem Communities are eligible to apply for funding at any time depending upon grant fund availability. A two (2) step review process is used The following process will be used to select which eligible proposals will be funded: (~~3-15-02~~)( )

**01. Review of Proposals.** ~~The Gem Community~~ Department staff reviews proposals for completeness, ~~allowable costs~~ and compliance with ~~grant~~ these rules and makes

# House Commerce and Human Resources Committee

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## DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

---

recommendations for funding to the ~~IDC~~ Department's Director. (2-7-94)( )

**02. Grant Awards.** The ~~IDC~~ Department's Director, in his sole discretion, makes all ~~GCI grant~~ IGG awards. The Director may make grant awards at any time the Director determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG Program. (3-15-02)( )

**03. ~~Director Discretion.~~** ~~The IDC Director may make grant awards at any time to take advantage of special opportunities.~~ (3-15-02)

**018. -- 019. (RESERVED).**

### **020. APPLICATION PROCESS.**

**01. Applications.** Applications for ~~Gem Community Implementation Grants~~ IGGs may be submitted by eligible communities at any time. (3-15-02)( )

**02. Application For Funding.** Application for funding is made by submitting one (1) copy of the grant proposal in the required format to the ~~Idaho Department of Commerce and Labor.~~ (2-7-94)( )

**021. -- 029. (RESERVED).**

### **030. PROPOSAL FORMAT.**

~~GCI~~ IGG applications shall be submitted on eight and one-half by eleven inches (8 1/2" x 11") white paper. The text shall be typed, with numbered pages. The types of headings, required content and numbering systems ~~are optional to the applicant~~ shall conform to the latest revision of the IGG Handbook. ~~The proposal should contain the following information and sections:~~ (3-15-02)( )

**01. ~~Cover Page.~~** ~~The cover should include one (1) signature from each city council/ mayor and county commission of the community. The designated grant administrator and a contact person should also be named on the cover page.~~ (2-7-94)

**02. ~~Table Of Contents.~~** (2-7-94)

**03. ~~Project Description.~~** ~~Include a brief narrative description of the project that contains:~~ (2-7-94)

**a. ~~Project need and benefits expected.~~** ~~Reference the project's purpose in the Community one (1) year plan.~~ (2-7-94)

**b. ~~Time line.~~** ~~Show anticipated start date, end date and projected times for completion of major components of the project.~~ (2-7-94)

**c. ~~The applicant shall include a description of the proposed administration of the project and how the accounting will be performed. If the lead community economic development organization or one city or county in a multi city/county community is to be named grant~~**

# House Commerce and Human Resources Committee

## DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

~~administrator, a formally adopted resolution designating the administrator shall be included in the proposal.~~ (2-7-94)

~~04. **Project Budget.** Applicants must show a line item breakdown for the use of the GCI funds and the amount and use of matching funds. Applicants shall also include the following:~~ (3-15-02)

~~a. A narrative explaining donations used for match, and how they will contribute to the completion of the project.~~ (2-7-94)

~~b. Letters of commitment of matching funds. All sources of matching funds shall be documented by including letters of commitment from the donor.~~ (2-7-94)

~~c. Formally adopted resolutions from each city council and county commission of the certified community.~~ (3-15-02)

### 031. MATCHING FUNDS.

All ~~GCI~~ IGG grantees must provide a minimum of twenty percent (20%) matching funds of either cash or in-kind donations for the ~~GCI~~ total amount of IGG funds received. Matching funds can be comprised of any combination of cash and in-kind donations and must meet the following criteria: (3-15-02)( )

01. ~~Match~~ **Source.** Matching funds can be from private, local, state, federal, or foundation sources. (2-7-94)( )

02. **Relation to Project.** All matching funds must be related to the planning, implementation or operation of the project being funded. (2-7-94)( )

03. **Documentation of Matching Funds.** Matching funds must be documented by receipt, invoice, time cards, or by other written documentation signed by the donor. (2-7-94)( )

04. ~~GCI~~ **IGG Funds.** ~~GCI~~IGG funds may be used ~~to~~ as matching funds for other state, federal and foundation grant ~~funds~~programs. (3-15-02)( )

05. **Administrative Expenses Used as Matching Funds.** Up to two thousand five hundred dollars (\$2,500) of the grantee's ~~administrator's~~ administrative expenses related to the project being funded may be used as matching funds for the grant. (3-15-02)( )

### 032. GRANT PAYMENT.

Payment of ~~GCI grants~~ IGGs will be made in the following manner: (3-15-02)( )

01. **Payment of Funds.** Grantees shall ~~normally~~ receive payment of ~~GCI~~ IGG funds on a cost reimbursement basis. Grant payment procedures will be established in the ~~GCI Grant~~ IGG Contract. To receive reimbursement, the grantee must submit receipts and matching funds documentation to the Department for the ~~grant~~ reimbursement amount being requested. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds ~~is~~ documentation have been provided. The grantee shall be



## House Commerce and Human Resources Committee

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### DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

---

responsible for any discrepancies in documentation.

(3-15-02)( )

**02. Special Circumstances.** In special circumstances due to the small size of the community or the nature of the project, grantees may request receipt of ~~GCI~~ IGG funds on other than a cost reimbursement basis. The Department will review the requests and determine ~~the~~ in its sole discretion whether different payment procedures ~~necessary are warranted~~ to avoid hardship to the community.

(3-15-02)( )

### 033. REPORTING.

All ~~GCI grant~~ IGG recipients are required to submit the following two (2) reports:

(3-15-02)( )

**01. Status Report.** A status report is required with each request for payment. It should contain the following information:

(3-15-02)

a. A short narrative outlining the project status, successes, and problems, ~~etc. and~~

(2-7-94)( )

b. Press clippings, pictures and other information about the project as available.

(2-7-94)

**02. Final Report.** All grantees shall submit a final report containing the following information:

(2-7-94)

a. A narrative describing the success of the project.

(2-7-94)

b. A description of the impact the project has had and will have on the community including long term benefits anticipated.

(2-7-94)

c. A description of any special contributions or work provided on the project.

(2-7-94)

d. Any other information, pictures or press clippings about the project that have not already been submitted; ~~i.e., pictures, press clippings, etc.~~

(2-7-94)( )

### (BREAK IN CONTINUITY OF SECTIONS)

### 035. CONFLICT OF INTEREST.

No official, officer, employee, family member or agent of the Department ~~of Commerce and Labor~~, or of a grantee, shall profit financially, directly or indirectly, from ~~GCI~~ IGG funds under their direction or control.

(3-15-02)( )

### 036. CREDIT STATEMENT.

All activities funded by the ~~Idaho Gem Community Implementation Grant~~ IGG ~~p~~Program shall credit the program. The following credit statement ~~will~~ shall be placed on all ~~GCI~~ IGG funded

## House Commerce and Human Resources Committee

---

### DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

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brochures, slide shows, videos, films, displays, advertising, press releases and other printed materials: "This publication made possible by an Idaho Gem Grant, Idaho Department of Commerce and Labor" or "paid, Idaho Gem Grant, Idaho Department of Commerce and Labor."  
(3-15-02)( )

~~01. Credit Statement.~~ "This publication made possible by a Gem Community Implementation Grant, Idaho Department of Commerce and Labor" or "paid, Gem Community Implementation Grant, Idaho Department of Commerce and Labor".  
(3-15-02)

**021. Failure to Comply.** Failure to ~~comply with~~ crediting the ~~GCI grant~~ IGG pProgram could jeopardize payment of as required above may, at the Department's sole discretion, disqualify the grantee from receiving IGG funding for that portion of the project for which credit was not given.  
(3-15-02)( )

**032. Other Credit.** Credit may also be given to other sources of assistance. (2-7-94)

**037. -- 039. (RESERVED).**

### **040. BID PROCESS FOR THE PURCHASE OF GOODS OR SERVICES OVER \$25,000.**

~~GCI~~ IGG grantees shall contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or services over twenty-five thousand dollars (\$25,000). Prior to reimbursement for such costs, the ~~appropriate~~ following information shall be submitted to the Department ~~which documents the following~~:  
(3-15-02)( )

**01. Item or Service (~~To Be~~) Purchased.** A detailed description of the item or service purchased or to be purchased.  
(2-7-94)( )

**02. ~~Written Record~~ Bid Verification.** A ~~w~~Written ~~record~~ documentation of three (3) or more ~~companies~~ businesses or vendors contacted by IGG grantees for bids or quotes. The documentation must ~~list~~ the businesses or vendors contacted and indicate their response. The documentation must also ~~include those~~ a list of all businesses or vendors contacted whether or not a response was received.  
(2-7-94)( )

**03. Reasons for Selection.** Grantees ~~reasoning~~ justification for ~~selecting the vendor chosen~~ the business or vendor selected.  
(2-7-94)( )

### (BREAK IN CONTINUITY OF SECTIONS)

### **042. LOSS OF PROJECT ~~LOSES~~ VIABILITY.**

It is the responsibility of the IGG grantee to give immediate written notification to the Department as soon as the grantee becomes aware that its project has lost viability. If a project loses its viability after selection for funding and prior to any expenditure of ~~GCI~~ IGG funds, the project ~~may shall~~ be terminated ~~by mutual agreement of the grantee and the Department and the Department's IGG award shall be voided.~~ The community retains its eligibility to apply for ~~GCI~~

## House Commerce and Human Resources Committee

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### DEPARTMENT OF COMMERCE AND LABOR Idaho Gem Community Implementation Grant Program

Docket No. 09-0204-0401  
PENDING RULE

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~~funds.~~ If a project loses its viability after the grantee expends IGG funds, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department may, in its sole discretion, agree to modify, restructure or amend the project. (3-15-02)( )

~~01. **Lose Of Viability.** If a project loses its viability after the grantee expends GCI funds, the grantee must notify the Department as soon as possible. Reasonable efforts may be made to modify, restructure or amend the project contract at the discretion of the Department.~~ (3-15-02)

~~02. **Termination Of Funding.** Funding for projects may be terminated by the Department at any time for gross misuse or abuse of funds. Upon receipt of a notice of termination the grantee will stop all expenditures of GCI funds and return all unspent GCI funds to the Department. The Department will make a fair and reasonable final payment to the grantee based on the work completed, allowable costs incurred and documentation provided.~~ (3-15-02)

#### **043. TERMINATION OF FUNDING.**

Funding for projects may be terminated by the Department at any time for the misuse of IGG funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred and the documentation provided by the grantee as required by these rules. ( )

**0434. -- 999. (RESERVED).**

# House Commerce and Human Resources Committee

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION

DOCKET NO. 17-0602-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule designated the appointment of a Chief Inspector by the Division of Building Safety Administrator, and designated the Chief Inspector as the Idaho representative to sit on the National Board of Boiler and Pressure Vessel Inspectors.**

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 402 through 403.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

DATED this 17th Day of November, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

## House Commerce and Human Resources Committee

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### **INDUSTRIAL COMMISSION**

#### **Boiler and Pressure Vessel Safety Rules - Administration**

**Docket No. 17-0602-0401**

**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Designates appointment of a Chief Inspector by the Division of Building Safety Administrator, and designates the Chief Inspector as the Idaho representative to sit on the National Board of Boiler and Pressure Vessel Inspectors.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted by the Industrial Commission.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 27th day of August, 2004.

Thomas E. Limbaugh, Commissioner  
Industrial Commission  
317 Main St.  
PO Box 83720  
Boise, Idaho 83720-0041  
(208) 334-6000  
(208) 334-2321

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **013. ~~(RESERVED)~~ IDAHO CHIEF INSPECTOR AND BOARD REPRESENTATIVE.**

**01. Chief Inspector.** One (1) employee of the Department who has been trained, qualified, and received a Certificate of Competency as an inspector by the Board, shall, with the approval of the Commission, be appointed by the Administrator of the Division of Building Safety as the Chief Inspector for the state of Idaho. The Administrator of the Division of Building Safety shall assign the duties and responsibilities of the Chief Inspector. ( )

**02. State Board Representative.** The Chief Inspector shall be designated by the

## House Commerce and Human Resources Committee

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**INDUSTRIAL COMMISSION****Docket No. 17-0602-0401****Boiler and Pressure Vessel Safety Rules - Administration****PENDING RULE**

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Administrator of the Division of Building Safety as the representative of the state of Idaho to the Board. The representative may participate in all functions and activities of the Board consistent with furthering the interest of the state in fostering Boiler and Pressure Vessel safety in Idaho.

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# House Commerce and Human Resources Committee

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS AND MOVING WALKS

#### DOCKET NO. 17-0701-0401 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule repealed the entire chapter to comply with changes passed by the 2004 legislature removing safety inspections of elevators, escalators, and moving walks from Section 72-720, Idaho Code, under jurisdiction of the Industrial Commission and placing jurisdiction with the Division of Building Safety in Title 39, Chapter 86, that became effective July 1, 2004.**

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 404.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

DATED this 17th Day of November, 2004.

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### *The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is July 4, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

## House Commerce and Human Resources Committee

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**INDUSTRIAL COMMISSION****Safety Rules for Elevators, Escalators & Moving Walks****Docket No. 17-0701-0401 (Chapter Repeal)****PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reason for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Repeals the entire chapter to comply with changes passed by the 2004 legislature removing safety inspections of elevators, escalators and moving walks from Section 72-720, Idaho Code, under jurisdiction of the Industrial Commission and placing jurisdiction with the Division of Building Safety in Title 39, Chapter 86, that became effective July 1, 2004.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: Compliance with deadlines in amendments to governing law or federal programs.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted by the Industrial Commission.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 10th day of August, 2004.

Thomas E. Limbaugh, Commissioner  
Industrial Commission  
317 Main St.  
PO Box 83720, Boise, Idaho 83720-0041  
(208) 334-6000 / (208) 334-2321

**IDAPA 17.07.01 IS BEING REPEALED IN ITS ENTIRETY.**